

**Case No. 7:22-cv-1240-LCB-HNJ**

Evan Carmichael, a prisoner at the Bibb County Correctional Facility, brings this suit under 42 U.S.C. § 1983. (Doc. 1 at 1, 3–4). In October 2022, United States Magistrate Judge Herman N. Johnson Jr. ordered Carmichael to pay the Court’s standard filing fee (\$402) or move for leave to proceed *in forma pauperis* by November 3, 2022. (Doc. 3 at 1). Judge Johnson warned Carmichael that failure to comply could result in the Court dismissing this case for lack of prosecution under Federal Rule of Civil Procedure 41(b). *Id.* To date, Carmichael has neither paid the Court’s filing fee, moved to proceed *in forma pauperis*, nor otherwise complied with Judge Johnson’s order.

Judge Johnson now recommends that the Court dismiss this case under Rule 41(b). (Doc. 4 at 2).<sup>1</sup> A federal district court must dismiss a case without prejudice if the plaintiff does not pay the court's filing fee or move to proceed *in forma pauperis*. *White v. Lemma*, 947 F.3d 1373, 1377 (11th Cir. 2020). Additionally, under Rule 41(b), a district court may dismiss a case if the plaintiff fails to prosecute his claims or comply with a court order. *Equity Lifestyle Properties, Inc. v. Fla. Mowing & Landscape Serv., Inc.*, 556 F.3d 1232, 1240 (11th Cir. 2009). Here, Carmichael has neither paid the Court's filing fee, moved to proceed *in forma pauperis*, nor otherwise complied with Judge Johnson's order. Thus, the Court finds that this case should be dismissed without prejudice.

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For these reasons, the Court **ADOPTS** Judge Johnson's recommendation (Doc. 4) and **DISMISSES** this case without prejudice under Rule 41(b). The Clerk of Court shall close this case.

**DONE and ORDERED** January 3, 2023.



**LILES C. BURKE**  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> Carmichael has filed no objection to the recommendation. His time for filing objections expired on December 5, 2022. (Doc. 4 at 2).